



March 9<sup>th</sup>, 2010  
W56553

U.S. Army Corps of Engineers  
Attn: CECW-CE, Douglas J. Wade  
441 G Street NW  
Washington, DC 20314-1000

Subject: Comments on Proposed Variance Process of Levee Vegetation Management,  
Docket Number COE-2010-0007

Dear Mr. Wade:

Thank you for the chance to comment on the proposed changes. Although we recognize it is the Corps' intent to ensure the structural integrity of levee systems, the variance criteria as proposed appear unnecessarily onerous and will assuredly have an adverse impact on ESA listed aquatic species in our community.

For this reason, Pierce County is strongly advocating that the Corps reject these standards for Puget Sound Region. If it chooses not to, we strongly recommend the Corps initiate a National Environmental Policy Act comprehensive environmental review of the proposed variance process, including an Environmental Impact Statement and an ESA Section 7 consultation with the NOAA National Marine Fisheries Service (NMFS).

Issues of primary concern are:

1. In the Biological Opinion issued following an assessment of FEMA's National Flood Insurance Program, NMFS already addressed the habitat impacts of the USACOE Vegetation Management Program. "Reasonable and Prudent Alternative #5" of the BiOp recommends that 1) FEMA no longer recognize the flood protection offered by levees maintained in a way that reduces aquatic habitat and 2) that communities dropped from the PL84-99 program because of vegetation management compliance issues should not be penalized and should still benefit from emergency funding for flood damage repairs.

Obviously, such conflicts in Federal policy need to be resolved at the Federal level without penalizing the local communities trying to comply with conflicting regulations.



2. The current national levee vegetation standards (Corps ER 500-1-1) do not reflect the regional habitat concerns of the Pacific Northwest. Numerous studies have identified the importance of native riparian vegetation for sustainable fisheries. The Puget Sound Salmon Recovery Plan specifically requires restoration of native vegetation along river systems.

Review of the vegetation management guidelines themselves should be a higher priority than the variance process.

3. During a Corps-sponsored symposium on levee maintenance issues (Renton, Washington, February 2009), the Corps specifically committed to no changes in the Seattle District's regional variance until research currently being done by the Corps' Engineering Research and Development Center was completed. If that work has been completed, I am not aware that the results have been circulated for regional review.
4. The current proposal to invalidate all current variances and require local jurisdictions to re-apply under the new review criteria needs to be re-examined. Substantial time and energy has gone into negotiating the current regional variances and requiring re-application serves no useful purpose.
5. The variance process as proposed spells out four separate review steps at the Corps, any of which can deny a variance, but no appeal process. An administrative appeal process must be included.
6. The variance process as proposed requires site specific engineering evaluation and does not appear to allow for regional or system wide variances. Given the ESA compliance concerns within the Pacific Northwest, a regional variance process must be available.
7. The proposed standards are inconsistent with the August 27, 1988 Lands Settlement Agreement and its associated Puyallup River Vegetation Management Program between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Harold P. Smelt', with a stylized flourish at the end.

Harold P. Smelt, PE  
Surface Water Manager

HPS/ar

Cc: file  
Puyallup Tribe of Indians  
Ryan Dicks, Pierce County Executive's Office